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FM AMCONSUL LAGOS
TO RUEHC/SECSTATE WASHDC PRIORITY 7782
INFO RUEHZK/ECOWAS COLLECTIVE PRIORITY
RUEHUJA/AMEMBASSY ABUJA PRIORITY 7719
RUEHAR/AMEMBASSY ACCRA PRIORITY 1253
RUEHDS/AMEMBASSY ADDIS ABABA PRIORITY 0164
RUEHBS/AMEMBASSY BRUSSELS PRIORITY 0368
RUEHDK/AMEMBASSY DAKAR PRIORITY 0794
RUEHRO/AMEMBASSY ROME PRIORITY 1129
RULSDMK/DEPT OF TRANSPORTATION WASHDC PRIORITY

C O N F I D E N T I A L LAGOS 001095

SIPDIS

C O R R E C T E D C O P Y (MESSAGE IS A CORRECTION
OF LAGOS 1075)

SIPDIS

STATE PASS FAA FOR ACONLEY,
TRANSPORTATION FOR FAA;
DAKAR PLEASE PASS TO FAA REP ED JONES;
ROME PLEASE PASS TO TSA REP JOHN HALINSKI

E.O. 12958: DECL: 08/10/2016
TAGS: [EAIR](#) [EINV](#) [PREL](#) [NI](#)
SUBJECT: BELLVIEW AND ARIK AIRLINES SEEK U.S. DIRECT ROUTE

REF: A)LAGOS 962

Classified By: Consul General Brian L. Browne
for reasons 1.4 (D).

¶1. (SBU) Summary. Bellview and Arik Airlines recently have received approval by the Aviation Ministry to fly direct routes to the United States, according to aviation insiders. Virgin Nigeria (VN) has accused the Aviation Ministry of breaching the Memorandum of Mutual Undertaking (MMU) which VN alleges granted it exclusive rights to fly from Nigeria to the United States. Aviation insiders believe the Aviation Ministry's actions did not breach the agreement and that VN would lose if it initiated legal action against the Ministry.
End Summary.

¶2. (U) The Aviation Ministry and VN signed an MMU on September 28, 2004. Under the agreement, the GON designated VN as a flag carrier with the full benefit and exclusive rights to operate out of Nigeria to London, New York, Jeddah, Dubai, and Johannesburg. The MMU explicitly states VN would have exclusive rights to operate these routes for a period of seven years from the date VN commenced flight operations. Aviation insiders say the Aviation Ministry has not breached the MMU, because they have not offered other carriers the right to fly from Lagos to New York.

Bellview and Arik Seek U.S Direct Route

¶3. (SBU) Bellview received permission from the Aviation Ministry July 18 to fly Lagos-Newark, while Arik received permission to fly Lagos-London (Stansted) and Lagos-Atlanta, CEO Bellview Airlines Kayode Odukoya confirmed. Odukoya claimed his office submitted Bellview's application to fly to the United States to the Department of Transportation on July 31. He said Bellview and Arik were also exploring the possibility of partnering with Delta or Continental.

¶4. (SBU) Odukoya claimed Arik's entry into the aviation industry would pose no threat to Bellview. He echoed what other contacts have told us, however, Arik had skipped due

process in obtaining Ministry designation to fly international routes (ref A). Nigerian Civil Aviation Authority (NCAA) guidelines for designation of domestic airlines on international routes requires a minimum of two years experience of flying domestic routes prior to Ministry designation to fly international routes, according to Odukoya. Arik Air has not started domestic operations, yet it received permission for international flights. This permission came because Rivers State Governor Peter Odili and President Obasanjo are linked to Arik, Odukoya claimed.

VN Crying Foul Play

15. (C) A VN non-voting executive board member said the Aviation Ministry's designation of international routes to Arik Air and Bellview breached their MMU agreement. He accused the Aviation Ministry of giving Arik Air preferential treatment for routes, he claims, which should have gone first to VN. VN would take the Aviation Ministry to court if this issue was not resolved, he asserted.

16. (C) According to VN CEO Conrad Clifford, VN interpreted the Memorandum as granting it exclusive rights to fly to the United States and not just New York. He also claimed Bellview never put in an application for designation, but that the Aviation Ministry added Bellview's name to the approved to make their preferential treatment of Arik appear less obvious. Assuming arguendo the MMU did not grant VN the exclusive right to all routes to the United States, VN contends the MMU did clearly grant it the right of first refusal of these additional routes. As its secondary argument, VN believes the GON breached the MMU by not giving it the opportunity to exercise its refusal rights.

17. (C) Some airline industry experts observe that it would not be in VN's strategic interest to take the Aviation Ministry to court. Besides the uncertainty of VN's legal arguments, the Ministry could also flex its muscle to disrupt VN's operations further. The Ministry claims offering other airlines the right to fly to Atlanta, Newark, or London-Stansted does not breach their agreement, because Newark is in New Jersey, and Stansted is outside of London in Essex County. Meanwhile, Nigerian Airspace Management Agency (NAMA) Director General Roland Iyayi accused VN of breaching the 'spirit' of their agreement, by flying Lagos to London-Gatwick rather than Lagos-Heathrow. Iyayi claimed VN settled on Gatwick so that its operations would not cut into the profits of Virgin Atlantic.

VN and Aviation Ministry Not on Good Terms

18. (C) The Aviation Ministry and VN's relationship has soured considerably. One of the Minister's aides told us the Minister is singularly displeased with VN because it has refused to fly routes the Minister has recommended. The Minister and prominent political powerbrokers have lost patience with VN. They want to start afresh with Arik Air, the aide said.

Comment

19. (C) What a difference a year makes. VN is no longer the Aviation Ministry's favorite. The tide seemingly has turned in favor of newcomer Arik, and to a lesser degree, Bellview. The GON likely thought VN would be a pliable instrumentality. However, VN has acted independently in following a business plan that does not always comport to the Ministry's political and bureaucratic objectives. Since the nadir of the October Bellview crash, that airline has steadily worked to regain the Ministry's blessing. Now Arik Air has suddenly arrived on the aviation scene. Both companies are exploiting VN's increasingly sour relationship with the Aviation Ministry to

promote their business interests and position themselves to
fly direct routes to the United States. End comment.
BROWNE